

## SENATE BILL No. 209

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-14-3-0.3; IC 13-11-2; IC 13-14-13; IC 13-15-4-1; IC 13-18; IC 13-20; IC 13-25; IC 36-1; IC 36-2-4-8; IC 36-3-4-14; IC 36-4-6-14; IC 36-5-2-10; IC 5-24; IC 13-11-2-256; IC 13-11-2-257.

**Synopsis:** Environmental issues. Repeals the electronic digital signature act. Amends the definition of "owner" for purposes of underground storage tank statutes. Replaces the undefined term "sanitary landfill" with "solid waste landfill". Establishes deadlines for action by the department of environmental management (IDEM) on various permit applications with respect to certain solid waste processing facilities. Expands the grounds on which the commissioner of IDEM may suspend or revoke a drinking water or wastewater operator certification. For purposes of wastewater management statutes, replaces the term "wastewater" with "septage". Provides that wastewater management statutes apply to land application of septage. For the purpose of determining liability of certain owners and operators to the state for remediation of environmental contamination under certain circumstances, applies exemptions to the same extent the exemptions apply under federal law for certain lenders that hold indicia of ownership but do not participate in management. Provides that an environmental restrictive ordinance (ERO) is an ordinance adopted by a municipal corporation that seeks to control the use of groundwater in a manner and to a degree that protects the groundwater against unacceptable exposure to a release of hazardous substances, petroleum, or both. Requires IDEM to give written notice to a municipal corporation that the department is relying on an ERO adopted by the municipal corporation as part of a risk based remediation proposal. Requires a municipal corporation to notify IDEM of adoption, repeal, or amendment of an ERO only if the municipal corporation received that written notice.

**Effective:** Upon passage; July 1, 2010.

**Gard**

January 5, 2010, read first time and referred to Committee on Energy and Environmental Affairs.



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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

## SENATE BILL No. 209

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 9-14-3-0.3 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.3. As used in this  
3       chapter, "digital signature" ~~has the meaning set forth in IC 5-24-2-1.~~  
4       **means an electronic signature that transforms a message using an**  
5       **asymmetric cryptosystem so that a person having the initial**  
6       **message and the signer's public key can accurately determine**  
7       **whether:**

8               (1) **the transformation was created using the private key that**  
9               **corresponds to the signer's public key; and**

10              (2) **the initial message has been altered since the**  
11              **transformation was made.**

12       SECTION 2. IC 13-11-2-71.2, AS ADDED BY P.L.78-2009,  
13       SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14       UPON PASSAGE]: Sec. 71.2. "Environmental restrictive ordinance"  
15       means, with respect to land, any ordinance that:

16              (1) is adopted by a municipal corporation (as defined in  
17              IC 36-1-2-10); and



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(2) ~~limits, regulates, or prohibits any of the following with respect to seeks to control the use of groundwater~~

~~(A) Withdrawal;~~

~~(B) Human consumption;~~

~~(C) Any other use;~~

**in a manner and to a degree that protects the groundwater against unacceptable exposure to a release of hazardous substances or petroleum, or both.**

SECTION 3. IC 13-11-2-148, AS AMENDED BY P.L.78-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 148. (a) "Operator", for purposes of IC 13-18-10, means the person in direct or responsible charge or control of one (1) or more confined feeding operations.

(b) "Operator", for purposes of IC 13-18-11 and environmental management laws, means the person in direct or responsible charge and supervising the operation of:

- (1) a water treatment plant;
- (2) a wastewater treatment plant; or
- (3) a water distribution system.

(c) "Operator", for purposes of IC 13-20-6, means a corporation, a limited liability company, a partnership, a business association, a unit, or an individual who is a sole proprietor that is one (1) of the following:

- (1) A broker.
- (2) A person who manages the activities of a transfer station that receives municipal waste.
- (3) A transporter.

(d) "Operator", for purposes of IC 13-23, except as provided in subsections (e), (g), and (h), means a person:

- (1) in control of; or
- (2) having responsibility for;

the daily operation of an underground storage tank.

(e) "Operator", for purposes of IC 13-23-13, does not include the following:

- (1) A person who
  - ~~(A) does not participate in the management of an underground storage tank;~~
  - ~~(B) is otherwise not engaged in the:~~
    - ~~(i) production;~~
    - ~~(ii) refining; and~~
    - ~~(iii) marketing;~~
  - ~~of regulated substances; and~~
  - ~~(C) holds evidence of ownership; primarily to protect the~~

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~~owner's security interest in the tank.~~  
**is not considered an operator under 42 U.S.C. 6991b(h)(9) and  
 40 CFR 280.210(c).**

(2) A person who:

(A) does not own or lease, directly or indirectly, the facility or  
 business at which the underground storage tank is located;

(B) does not participate in the management of the facility or  
 business described in clause (A); and

(C) is engaged only in:

(i) filling;

(ii) gauging; or

(iii) filling and gauging;

the product level in the course of delivering fuel to an  
 underground storage tank.

(3) A political subdivision (as defined in IC 36-1-2-13) or unit of  
 federal or state government that:

(A) acquires ownership or control of an underground storage  
 tank on a brownfield because of:

(i) bankruptcy;

(ii) foreclosure;

(iii) tax delinquency, including an acquisition under  
 IC 6-1.1-24 or IC 6-1.1-25;

(iv) abandonment;

(v) the exercise of eminent domain, including any purchase  
 of property once an offer to purchase has been tendered  
 under IC 32-24-1-5;

(vi) receivership;

(vii) transfer from another political subdivision or unit of  
 federal or state government;

(viii) acquiring an area needing redevelopment (as defined  
 in IC 36-7-1-3) or conducting redevelopment activities,  
 specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,  
 IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and  
 IC 36-7-15.1-15.5;

(ix) other circumstances in which the political subdivision  
 or unit of federal or state government involuntarily acquired  
 an interest in the property because of the political  
 subdivision's or unit's function as sovereign; or

(x) any other means to conduct remedial actions on a  
 brownfield; and

(B) is engaged only in activities in conjunction with:

(i) investigation or remediation of hazardous substances,

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petroleum, and other pollutants associated with a brownfield, including complying with land use restrictions and institutional controls; or

(ii) monitoring or closure of an underground storage tank; unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(f) For purposes of subsection (e)(3)(B), reckless, willful, or wanton misconduct constitutes gross negligence.

(g) "Operator" does not include a person that after June 30, 2009, meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank, the exemption criteria under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the determination of liability for a release of a hazardous substance.

(h) "Operator" does not include a person that meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank, the exemption criteria under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the determination of liability for a release of a hazardous substance, except that the person acquires ownership of the facility after June 30, 2009.

SECTION 4. IC 13-11-2-150, AS AMENDED BY P.L.78-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 150. (a) "Owner", for purposes of IC 13-23 (except as provided in subsections (b), (c), (d), (e), and (f)) means:

(1) for an underground storage tank that:

(A) was:

(i) in use on November 8, 1984; or

(ii) brought into use after November 8, 1984;

for the storage, use, or dispensing of regulated substances, a person who owns the underground storage tank **or the real property that is the underground storage tank site, or both;** or

(B) ~~is:~~ was:

(i) in use before November 8, 1984; but

(ii) no longer in use on November 8, 1984;

a person who owned the tank immediately before the discontinuation of the tank's use; or

(2) a person who conveyed ownership or control of the underground storage tank to a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government because of:

(A) bankruptcy;

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- 1 (B) foreclosure;  
 2 (C) tax delinquency, including a conveyance under  
 3 IC 6-1.1-24 or IC 6-1.1-25;  
 4 (D) abandonment;  
 5 (E) the exercise of eminent domain, including any purchase of  
 6 property once an offer to purchase has been tendered under  
 7 IC 32-24-1-5;  
 8 (F) receivership;  
 9 (G) acquiring an area needing redevelopment (as defined in  
 10 IC 36-7-1-3) or conducting redevelopment activities,  
 11 specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,  
 12 IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;  
 13 (H) other circumstances in which a political subdivision or  
 14 unit of federal or state government involuntarily acquired  
 15 ownership or control because of the political subdivision's or  
 16 unit's function as sovereign; or  
 17 (I) any other means to conduct remedial actions on a  
 18 brownfield;  
 19 if the person was a person described in subdivision (1)  
 20 immediately before the person conveyed ownership or control of  
 21 the underground storage tank.  
 22 (b) "Owner", for purposes of IC 13-23-13, does not include a person  
 23 who  
 24 ~~(1) does not participate in the management of an underground~~  
 25 ~~storage tank;~~  
 26 ~~(2) is otherwise not engaged in the:~~  
 27 ~~(A) production;~~  
 28 ~~(B) refining; and~~  
 29 ~~(C) marketing;~~  
 30 ~~of regulated substances; and~~  
 31 ~~(3) holds indicia of ownership primarily to protect the owner's~~  
 32 ~~security interest in the tank.~~  
 33 **is not considered an owner under 42 U.S.C. 6991b(h)(9) and 40**  
 34 **CFR 280.210(c).**  
 35 (c) "Owner", for purposes of IC 13-23, does not include a political  
 36 subdivision (as defined in IC 36-1-2-13) or unit of federal or state  
 37 government that acquired ownership or control of an underground  
 38 storage tank because of:  
 39 (1) bankruptcy;  
 40 (2) foreclosure;  
 41 (3) tax delinquency, including an acquisition under IC 6-1.1-24 or  
 42 IC 6-1.1-25;

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- (4) abandonment;
- (5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;
- (6) receivership;
- (7) transfer from another political subdivision or unit of federal or state government;
- (8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
- (9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or
- (10) any other means to conduct remedial actions on a brownfield;

unless the political subdivision or unit of federal or state government causes or contributes to the release or threatened release of a regulated substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-23 in the same manner and to the same extent as a nongovernmental entity under IC 13-23.

(d) "Owner", for purposes of IC 13-23, does not include a nonprofit corporation that acquired ownership or control of an underground storage tank to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-23 in the same manner and to the same extent as any other nongovernmental entity under IC 13-23.

(e) "Owner" does not include a person that after June 30, 2009, meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank, the exemption criteria under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the determination of liability for a release of a hazardous substance.

(f) "Owner" does not include a person that meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank, the exemption criteria under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the determination of liability for a release of a hazardous substance, except

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that the person acquires ownership of the facility after June 30, 2009.

SECTION 5. IC 13-11-2-151, AS AMENDED BY P.L.78-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 151. (a) "Owner or operator", for purposes of IC 13-24-1, means the following:

(1) For a petroleum facility, a person who owns or operates the facility.

(2) For a petroleum facility where title or control has been conveyed because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(F) receivership;

(G) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(H) other circumstances in which a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government involuntarily acquired title or control because of the political subdivision's or unit's function as sovereign; or

(I) any other means to conduct remedial actions on a brownfield;

to a political subdivision or unit of federal or state government, a person who owned, operated, or otherwise controlled the petroleum facility immediately before title or control was conveyed.

(b) Subject to subsection (c), the term does not include a political subdivision or unit of federal or state government that acquired ownership or control of the facility through:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under

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IC 32-24-1-5;

(6) receivership;

(7) transfer from another political subdivision or unit of federal or state government;

(8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

(10) any other means to conduct remedial actions on a brownfield.

(c) The term includes a political subdivision or unit of federal or state government that causes or contributes to the release or threatened release of a regulated substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-24-1:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under IC 13-24-1.

(d) The term does not include a person who

~~(1) does not participate in the management of a petroleum facility;~~

~~(2) is otherwise not engaged in the:~~

~~(A) production;~~

~~(B) refining; and~~

~~(C) marketing;~~

~~of petroleum; and~~

~~(3) holds evidence of ownership in a petroleum facility, primarily to protect the owner's security interest in the petroleum facility.~~

**is not considered an owner or operator under 42 U.S.C. 9601(20)(E) through 42 U.S.C. 9601(20)(G).**

(e) The term does not include a nonprofit corporation that acquired ownership or control of a facility to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-24-1 in the same manner and to the same extent as any other nongovernmental entity under IC 13-24-1.

(f) The term does not include a person that after June 30, 2009, meets, for purposes of the determination under IC 13-24-1 of liability

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for a release of petroleum, the exemption criteria under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the determination of liability for a release of a hazardous substance.

(g) The term does not include a person that meets, for purposes of the determination under IC 13-24-1 of liability for a release of petroleum, the exemption criteria under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the determination of liability for a release of a hazardous substance, except that the person acquires ownership of the facility after June 30, 2009.

SECTION 6. IC 13-11-2-167 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 167. "Portable sanitary unit", for purposes of ~~IC 13-18-12~~, **this chapter**, includes the following:

- (1) Portable toilets.
- (2) Mobile restrooms.
- (3) Similar devices or equipment of a portable nature containing sanitary facilities for temporary or short term use.

SECTION 7. IC 13-11-2-199.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 199.2. "Septage", for purposes of this chapter and IC 13-18-12, means the following:**

- (1) The following from sewage disposal systems:**
  - (A) Human excreta.**
  - (B) Water.**
  - (C) Scum.**
  - (D) Sludge.**
  - (E) Sewage.**
  - (F) Incidental or accidental seepage.**
- (2) Retained contents of sewage holding tanks and portable sanitary units.**
- (3) Grease, fats, and retained wastes from grease traps or interceptors.**
- (4) Human wastes carried in liquid from ordinary living processes.**

SECTION 8. IC 13-11-2-199.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 199.3. "Septage management", for purposes of IC 13-18-12, includes the following:**

- (1) The cleaning of sewage disposal systems.**
- (2) The transportation, storage, treatment, or disposal of septage.**

SECTION 9. IC 13-11-2-201 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 201. "Sewage disposal system", for purposes of **this chapter**, IC 13-18-12, and **IC 13-20-17.5**, means septic tanks, ~~wastewater~~ **septage** holding tanks, seepage pits, cesspools, privies, composting toilets, interceptors or grease traps, portable sanitary units, and other equipment, facilities, or devices used to:

- (1) store;
- (2) treat;
- (3) make inoffensive; or
- (4) dispose of;

human excrement or liquid carrying wastes of a domestic nature.

SECTION 10. IC 13-11-2-208 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 208. "Solid waste landfill", for purposes of IC 13-20-9, ~~IC 13-20-21-6~~, **IC 13-20-21**, and IC 13-22-9, means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

SECTION 11. IC 13-11-2-258 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 258. "Wastewater treatment plant", for purposes of IC 13-18-11, **IC 13-20-17.5**, and environmental management laws, means the system of treatment works, regulatory devices, equipment, and other facilities and appurtenances installed to treat sewage, industrial wastes, and other wastes delivered by a system of sewers and other related facilities, whether owned or operated by the state, a municipality, or a person, firm, or corporation. The term does not include septic tank disposal systems.

SECTION 12. IC 13-14-13-2, AS ADDED BY P.L.114-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The department may accept the electronic submission of information only if the submission meets the following:

- ~~(1) Standards established under IC 5-24 and corresponding rules.~~
- ~~(2) (1) Requirements of cross-media electronic reporting under 40 CFR 3.~~
- ~~(3) (2) Procedures established by the department to accept electronic information.~~

SECTION 13. IC 13-14-13-4, AS ADDED BY P.L.114-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The department may adopt procedures that are consistent with federal law for compliance with this chapter to allow an applicant to submit an electronic document bearing the valid electronic signature of a signatory if that signatory would otherwise be

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1 required to sign the paper document for which the electronic document  
2 substitutes.

3 (b) The procedures adopted under subsection (a) may provide for  
4 electronic signature standards that are

- 5 ~~(1) acceptable to the state board of accounts under IC 5-24; and~~  
6 ~~(2) consistent with 40 CFR 3.~~

7 SECTION 14. IC 13-14-13-6, AS ADDED BY P.L.114-2008,  
8 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 UPON PASSAGE]: Sec. 6. A person is subject to applicable state or  
10 federal civil, criminal, or other penalties and remedies for failure to  
11 comply with a reporting requirement if the person submits an electronic  
12 document that:

13 (1) is in place of a paper document under this chapter; and

14 (2) fails to comply with the following:

15 ~~(A) Standards established under IC 5-24 and supporting rules.~~

16 ~~(B)~~ (A) Requirements of cross-media electronic reporting  
17 under 40 CFR 3.

18 ~~(C)~~ (B) Procedures established by the department to accept  
19 electronic information.

20 SECTION 15. IC 13-15-4-1 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as  
22 provided in sections 2, 3, and 6 of this chapter, the commissioner shall  
23 approve or deny an application filed with the department after July 1,  
24 1995, within the following number of days:

25 (1) Three hundred sixty-five (365) days for an application  
26 concerning the following:

27 (A) A new hazardous waste or solid waste landfill.

28 (B) A new hazardous waste or solid waste incinerator.

29 (C) A major modification of a solid waste landfill.

30 (D) A major modification of a solid waste incinerator.

31 (E) A new hazardous waste treatment or storage facility.

32 (F) A new Part B permit issued under 40 CFR 270 et seq. for  
33 an existing hazardous waste treatment or storage facility.

34 (G) A Class 3 modification under 40 CFR 270.42 to a  
35 hazardous waste landfill.

36 **(H) A new solid waste processing facility other than a**  
37 **transfer station.**

38 (2) Two hundred seventy (270) days for an application concerning  
39 the following:

40 (A) A Class 3 modification under 40 CFR 270.42 of a  
41 hazardous waste treatment or storage facility.

42 (B) A major new National Pollutant Discharge Elimination

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System permit.

**(C) A major modification to a solid waste processing facility other than a transfer station.**

(3) One hundred eighty (180) days for an application concerning the following:

(A) A new ~~solid waste processing or recycling facility.~~  
**transfer station or a major modification to a transfer station.**

(B) A minor new National Pollutant Discharge Elimination System individual permit.

(C) A permit concerning the land application of wastewater.

(4) One hundred fifty (150) days for an application concerning a minor new National Pollutant Discharge Elimination System general permit.

(5) One hundred twenty (120) days for an application concerning a Class 2 modification under 40 CFR 270.42 to a hazardous waste facility.

(6) Ninety (90) days for an application concerning the following:

(A) A minor modification to a **permit for the following:**

(i) A solid waste landfill. ~~or~~

(ii) **A solid waste processing facility.**

(iii) ~~An incinerator. permit.~~

(B) A wastewater facility or water facility construction permit.

(7) The amount of time provided for in rules adopted by the air pollution control board for an application concerning the following:

(A) An air pollution construction permit that is subject to 326 IAC 2-2 and 326 IAC 2-3.

(B) An air pollution facility construction permit (other than as defined in 326 IAC 2-2).

(C) Registration of an air pollution facility.

(8) Sixty (60) days for an application concerning the following:

(A) A Class 1 modification under 40 CFR 270.42 requiring prior written approval, to a hazardous waste:

(i) landfill;

(ii) incinerator;

(iii) treatment facility; or

(iv) storage facility.

(B) Any other permit not specifically described in this section for which the application fee exceeds forty-nine dollars (\$49) and for which a time frame has not been established under section 3 of this chapter.

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(b) When a person holding a valid permit concerning an activity of a continuing nature has made a timely and sufficient application for a renewal permit under the rules of one (1) of the boards, the commissioner shall approve or deny the application on or before the expiration date stated in the permit for which renewal is sought.

SECTION 16. IC 13-18-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The commissioner may suspend or revoke the certificate of an operator **issued under this chapter**, following a hearing under IC 13-15-7-3 and IC 4-21.5, if any of the following conditions are found:

(1) The operator has practiced fraud or deception **in any state or other jurisdiction.**

(2) Reasonable care, judgment, or the application of the operator's knowledge or ability was not used in the performance of the operator's duties.

(3) The operator is incompetent or unable to properly perform the operator's duties.

**(4) A certificate of the operator issued:**

**(A) under this chapter; or**

**(B) by any other state or jurisdiction for a purpose comparable to the purpose for which a certificate is issued under this chapter;**

**has been revoked.**

**(5) The operator has been convicted of a crime related to a certificate of the operator issued:**

**(A) under this chapter; or**

**(B) by any other state or jurisdiction for a purpose comparable to the purpose for which a certificate is issued under this chapter.**

(b) A hearing and further proceedings shall be conducted in accordance with IC 4-21.5-7.

SECTION 17. IC 13-18-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. The water pollution control board and the department shall regulate persons who provide ~~wastewater~~ **septage** management services.

SECTION 18. IC 13-18-12-2, AS AMENDED BY P.L.114-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) A person may not transport, treat, store, or dispose of ~~wastewater~~ **septage** in violation of this chapter.

(b) A person may not engage in:

(1) the cleaning of sewage disposal systems; or

(2) the transportation, treatment, storage, or disposal of

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~~wastewater, septage;~~  
without a **wastewater septage** management permit unless the person is exempted under section 7 of this chapter.

(c) A person may not operate a vehicle for the transportation of **wastewater septage** without a **wastewater septage** management vehicle identification number issued under this chapter. ~~unless the person is exempted under section 4(a)(2) of this chapter.~~

(d) A person may not dispose of **wastewater septage** by land application without first obtaining approval of the land application site under this chapter.

(e) The department may issue a **wastewater septage** management permit that incorporates issuance of a **wastewater septage** management vehicle identification number and approval of a land application site.

(f) The department may issue new and renewal permits, identification numbers, and approvals under this chapter for a period the department determines appropriate. However, the period may not exceed three (3) years.

SECTION 19. IC 13-18-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. The board shall initiate, in accordance with IC 13-15, a **wastewater septage** management permit program for all persons who offer to perform or are performing **wastewater septage** management services.

SECTION 20. IC 13-18-12-4, AS AMENDED BY P.L.114-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The board shall, in accordance with IC 13-14-8, adopt rules to establish the following:

(1) Standards for the following:

(A) The issuance of **wastewater septage** management permits under section 3 of this chapter.

~~(B) Cleaning of sewage disposal systems.~~

~~(C)~~ **(B)** Transportation, storage, and treatment of **wastewater, septage**, and disposal of **wastewater, septage**, including land application.

(2) Issuance of identification numbers for all vehicles used in **wastewater septage** management services. ~~However, the board may exempt by rule vehicles licensed on September 1, 1983, under the industrial waste haulers rule 320 IAC 5-10 as the rule existed on September 1, 1983.~~

(3) Procedures and standards for approval of sites for land application of **wastewater, septage**.

(b) The board may designate a county or city health agency as the board's agent to approve land application sites in accordance with rules

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adopted under this section.

SECTION 21. IC 13-18-12-5, AS AMENDED BY P.L.114-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) Subject to subsections (b) and (c), the board may adopt a fee schedule for the issuance of:

- (1) ~~wastewater~~ **septage** management permits;
- (2) ~~wastewater~~ **septage** management vehicle identification numbers; and
- (3) land application site approvals;

under this chapter.

(b) A permit fee may not exceed one hundred dollars (\$100) per year.

(c) A vehicle identification number or land application approval fee may not exceed thirty dollars (\$30) per year per vehicle or site.

(d) Whenever the board designates a county or city health agency as the board's agent to approve land application sites under this chapter, the county or city health agency shall collect and retain the land application approval fee.

SECTION 22. IC 13-18-12-7, AS AMENDED BY P.L.114-2008, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. This chapter does not require a person to obtain a permit or vehicle identification number under this chapter if the person is:

- (1) engaged in:
  - (A) servicing or maintaining publicly owned wastewater treatment facilities; or
  - (B) transportation of wastewater from a publicly owned wastewater treatment facility;

as long as the wastewater at that facility has been fully treated and is stabilized;

- (2) transporting ~~wastewater~~ **septage** from the point of its removal to another location on the same site or tract owned by the same person, although disposal of the ~~wastewater~~ **septage** must be done in accordance with this chapter; or

- (3) a homeowner who cleans and services the sewage disposal system serving only the homeowner's residence, although transportation and disposal of ~~wastewater~~ **septage, including land application**, must be done in compliance with this chapter.

SECTION 23. IC 13-20-17.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. After July 1, 2003, a person may sell or provide a mercury commodity to another person in this state (other than for collection for recycling) only if:

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(1) the person selling or providing the mercury commodity provides a material safety data sheet with the mercury commodity; and

(2) the person selling or providing the mercury commodity requires the purchaser or recipient to sign a statement with respect to the mercury in the mercury commodity that the purchaser or recipient:

(A) will use the mercury only:

(i) for medical purposes;

(ii) in dental amalgam dispose-caps;

(iii) for training;

(iv) for research; or

(v) for manufacturing purposes;

(B) understands that mercury is toxic;

(C) will store and use the mercury appropriately so that no individual is exposed to the mercury under normal conditions of use; and

(D) will not intentionally:

(i) place or cause to be placed; or

(ii) allow anyone under the control of the purchaser or recipient to place or cause to be placed;

the mercury commodity in solid waste for disposal, ~~or in a wastewater~~ **sewage** disposal system, **or in a wastewater treatment plant.**

SECTION 24. IC 13-20-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. **(a) Except as provided in subsections (b) and (c), for solid waste permits, the application fees are as follows:**

New Permit or Major Modification

	Fee
<del>Sanitary Landfill</del>	<del>\$31,300</del>
Construction\Demolition Site	\$20,000
Restricted Waste Site	
Type I	\$31,300
Type II	\$31,300
Type III	\$20,000
Processing Facility	
Transfer Station	\$12,150
Other	\$12,150
Incinerator	\$28,650
Waste Tire Storage	
Registration	\$ 500

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1	Waste Tire Processing	\$ 200
2	Waste Tire	
3	Transportation	\$ 25
4	Permit Renewal	
5	<del>Sanitary Landfill</del>	<del>\$ 15,350</del>
6	Construction\	
7	Demolition Site	\$ 7,150
8	Restricted Waste Site	
9	Type I	\$ 15,350
10	Type II	\$ 15,350
11	Type III	\$ 7,150
12	Processing Facility	
13	Transfer Station	\$ 2,200
14	Other	\$ 2,200
15	Incinerator	\$ 5,900
16	Waste Tire Processing	\$ 200
17	Minor Modification	
18	Minor Modification	\$2,500

(b) The fee for:

(1) a new permit; or

(2) a permit for a major modification;

for a solid waste landfill not covered by subsection (a) is thirty-one thousand three hundred dollars (\$31,300).

(c) The fee for a permit renewal for a solid waste landfill not covered by subsection (a) is fifteen thousand three hundred fifty dollars (\$15,350).

SECTION 25. IC 13-20-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. For solid waste, the annual operation fees are as follows:

30		Fee
31	<del>Sanitary Solid Waste Landfill</del>	
32	<b>Not Otherwise Covered in This Section</b>	
33	> 500 TPD	\$35,000
34	250-499 TPD	\$15,000
35	100-249 TPD	\$ 7,000
36	<100 TPD	\$ 2,000
37	Construction\	
38	Demolition Site	\$ 1,500
39	Restricted Waste Site	
40	Type I	\$35,000
41	Type II \$25,000	
42	Type III	\$10,000

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1	Processing Facility	
2	Transfer Station	\$ 2,000
3	Other	\$ 2,000
4	Incinerator	
5	>500 TPD	\$35,000
6	250-499 TPD	\$15,000
7	100-249 TPD	\$ 7,000
8	<100 TPD	\$ 2,000
9	Infectious Waste	
10	Incinerator (>7 TPD)	\$ 5,000
11	Waste Tire Storage	
12	Registration	\$ 500
13	Waste Tire Transportation	
14	Registration	\$ 25
15	Groundwater	
16	Compliance	
17	Sampling	
18	(per well)	\$ 250

19 SECTION 26. IC 13-20-21-9 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. Solid waste disposal  
 21 fees must be paid by all solid waste disposal facilities, including  
 22 ~~sanitary landfills;~~ **solid waste landfills**, incinerators, and  
 23 construction\demolition disposal facilities. Solid waste disposal fees:

24 (1) for the period of January 1 through June 30 of each year are  
 25 due on August 1 of that year; and

26 (2) for the period of July 1 through December 31 of each year are  
 27 due on February 1 of the following year.

28 SECTION 27. IC 13-25-4-8, AS AMENDED BY P.L.221-2007,  
 29 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 UPON PASSAGE]: Sec. 8. (a) Except as provided in subsection (b),  
 31 (c), or (d), a person that is liable under Section 107(a) of CERCLA (42  
 32 U.S.C. 9607(a)) for:

33 (1) the costs of removal or remedial action incurred by the  
 34 commissioner consistent with the national contingency plan;

35 (2) the costs of any health assessment or health effects study  
 36 carried out by or on behalf of the commissioner under Section  
 37 104(i) of CERCLA (42 U.S.C. 9604(i)); or

38 (3) damages for:

39 (A) injury to;

40 (B) destruction of; or

41 (C) loss of;

42 natural resources of Indiana;

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1 is liable, in the same manner and to the same extent, to the state under  
2 this section.

3 (b) The exceptions provided by Sections **101(20)(E) through**  
4 **101(20)(G)**, 107(b), 107(q), and 107(r) of CERCLA (**42 U.S.C.**  
5 **9601(20)(E) through 42 U.S.C. 9601(20)(G)**, 42 U.S.C. 9607(b), 42  
6 U.S.C. 9607(q), and 42 U.S.C. 9607(r)) to liability otherwise imposed  
7 by Section 107(a) of CERCLA (42 U.S.C. 9607(a)) are equally  
8 applicable to any liability otherwise imposed under subsection (a).

9 (c) Notwithstanding any liability imposed by the environmental  
10 management laws, a lender, a secured or unsecured creditor, or a  
11 fiduciary is not liable under the environmental management laws, in  
12 connection with the release or threatened release of a hazardous  
13 substance from a facility unless the lender, the fiduciary, or creditor has  
14 participated in the management of the hazardous substance at the  
15 facility.

16 (d) Notwithstanding any liability imposed by the environmental  
17 management laws, the liability of a fiduciary for a release or threatened  
18 release of a hazardous substance from a facility that is held by the  
19 fiduciary in its fiduciary capacity may be satisfied only from the assets  
20 held by the fiduciary in the same estate or trust as the facility that gives  
21 rise to the liability.

22 (e) Except as provided in subsection (g), a political subdivision (as  
23 defined in IC 36-1-2-13) or unit of federal or state government is not  
24 liable to the state under this section for costs or damages associated  
25 with the presence of a hazardous substance on, in, or at a property in  
26 which the political subdivision or unit of federal or state government  
27 acquired an interest because of:

- 28 (1) bankruptcy;
- 29 (2) foreclosure;
- 30 (3) tax delinquency, including an acquisition under IC 6-1.1-24
- 31 or IC 6-1.1-25;
- 32 (4) abandonment;
- 33 (5) the exercise of eminent domain, including any purchase of
- 34 property once an offer to purchase has been tendered under
- 35 IC 32-24-1-5;
- 36 (6) receivership;
- 37 (7) transfer from another political subdivision or unit of federal
- 38 or state government;
- 39 (8) acquiring an area needing redevelopment (as defined in
- 40 IC 36-7-1-3) or conducting redevelopment activities, specifically
- 41 under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1,
- 42 IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

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(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

(10) any other means to conduct remedial actions on a brownfield.

(f) If a transfer of an interest in property as described in subsection (e) occurs, a person who owned, operated, or otherwise controlled the property immediately before the political subdivision or unit of federal or state government acquired the interest in the property remains liable under this section:

(1) in the same manner; and

(2) to the same extent;

as the person was liable immediately before the person's interest in the property was acquired by the political subdivision or unit of federal or state government.

(g) Notwithstanding subsection (e), a political subdivision or unit of federal or state government that causes or contributes to the release or threatened release of a hazardous substance on, in, or at a property remains subject to this section:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under this section.

(h) Except as provided in subsection (i), a nonprofit corporation is not liable to the state under this section for costs or damages associated with the presence of a hazardous substance on, in, or at a property in which the nonprofit corporation acquired an interest to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation.

(i) Notwithstanding subsection (h), a nonprofit corporation that causes or contributes to a release or threatened release of a hazardous substance on, in, or at a property remains subject to this section:

(1) in the same manner; and

(2) to the same extent;

as any other nongovernmental entity under this section.

(j) A political subdivision or unit of federal or state government that establishes an exemption or defense under subsection (b) or (e) may undertake any activity related to:

(1) investigation, removal, or remedial action on a brownfield, including complying with land use restrictions and institutional controls; or

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(2) monitoring or closure of an underground storage tank; without being considered as contributing to the existing release or threatened release of hazardous substances on, in, or at the brownfield unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(k) For purposes of subsection (j), reckless, willful, or wanton misconduct constitutes gross negligence.

SECTION 28. IC 13-25-5-8.5, AS AMENDED BY P.L.78-2009, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) A voluntary remediation work plan must specify the remediation objectives for the site. Subsections (b) through (e) apply to a site regardless of whether the site was entered into the voluntary remediation program before July 1, 2009, or after June 30, 2009.

(b) The remediation objectives for each hazardous substance and any petroleum on the site shall be based on:

(1) background levels of hazardous substances and petroleum that occur naturally on the site; or

(2) an assessment of the risks pursuant to subsection (d) posed by the hazardous substance or petroleum presently found on the site taking into consideration the following:

(A) Expected future use of the site.

(B) Measurable risks to human health, natural resources, or the environment based on the:

(i) activities that take place; and

(ii) environmental impact; on the site.

(c) If the:

(1) nature and extent of the hazardous substance or petroleum is adequately characterized under the voluntary remediation work plan, considering the remediation objectives developed under this section; and

(2) the level of the hazardous substance or petroleum is demonstrated to be below:

(A) background levels of the hazardous substances and petroleum that occur naturally on the site; or

(B) the risk based levels developed under subsection (d); additional action is not necessary to protect human health or the environment.

(d) Risk based remediation objectives shall be based on one (1) of the following:

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(1) Levels of hazardous substances and petroleum calculated by the department using standard equations and default values for particular hazardous substances or petroleum.

(2) Levels of hazardous substances and petroleum calculated using site specific data for the default values in the department's standard equations.

(3) Levels of hazardous substances and petroleum developed based on site specific risk assessments that take into account site specific factors, including remedial measures, restrictive covenants, and environmental restrictive ordinances that:

(A) manage risk; and

(B) control completed or potential exposure pathways.

(e) The department shall consider and give effect to restrictive covenants and environmental restrictive ordinances in evaluating risk based remediation proposals.

**(f) The department, or a person authorized under subsection (g), shall give written notice to a municipal corporation that the department is relying on an environmental restrictive ordinance adopted by the municipal corporation as part of a risk based remediation proposal:**

**(1) approved by the department; and**

**(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or IC 13-25-5.**

**(g) The department may delegate authority to give the written notice referred to in subsection (f) to the person who proposed the risk based remediation.**

SECTION 29. IC 36-1-2-4.7, AS ADDED BY P.L.78-2009, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.7. "Environmental restrictive ordinance" means, with respect to land, any ordinance that:

(1) is adopted by a municipal corporation; and

(2) ~~limits, regulates, or prohibits one (1) or more of the following with respect to~~ **seeks to control the use of** groundwater

~~(A) Withdrawal;~~

~~(B) Human consumption;~~

~~(C) Any other use;~~

**in a manner and to a degree that protects the groundwater against unacceptable exposure to a release of hazardous substances or petroleum, or both.**

SECTION 30. IC 36-1-6-11, AS ADDED BY P.L.78-2009, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) **Subject to subsection (e), the**

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legislative body of a municipal corporation shall:

(1) subject to subsection (b), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

(2) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(b) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subsection (a)(1).

(c) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subsection (a).

(d) The failure of an environmental restrictive ordinance to comply with subsection (c) does not void the ordinance.

**(e) The notice requirements of subsection (a) apply only if the municipal corporation received under IC 13-25-5-8.5(f) written notice that the department is relying on the environmental restrictive ordinance referred to in subsection (a) as part of a risk based remediation proposal:**

**(1) approved by the department; and**

**(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or IC 13-25-5.**

SECTION 31. IC 36-2-4-8, AS AMENDED BY P.L.78-2009, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) An ordinance, order, or resolution is considered adopted when it is signed by the presiding officer. If required, an adopted ordinance, order, or resolution must be promulgated or published according to statute before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published once each week for two (2) consecutive weeks, according to IC 5-3-1. However, if such an ordinance is adopted by the legislative body of a county subject to IC 36-2-3.5 and there is an urgent necessity requiring its immediate effectiveness, it need not be published if:

(1) the county executive proclaims the urgent necessity; and

(2) copies of the ordinance are posted in three (3) public places in each of the districts of the county before it takes effect.

(c) The following apply in addition to the other requirements of this section:

(1) An ordinance or resolution passed by the legislative body of

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a county subject to IC 36-2-3.5 is considered adopted only if it is:

(A) approved by signature of a majority of the county executive;

(B) neither approved nor vetoed by a majority of the executive, within ten (10) days after passage by the legislative body; or

(C) passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after presentation of the ordinance or resolution to the executive.

(2) **Subject to subsection (g)**, the legislative body of a county shall:

(A) subject to subdivision (3), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

(B) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(3) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subdivision (2)(A).

(4) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subdivision (2).

(5) The failure of an environmental restrictive ordinance to comply with subdivision (4) does not void the ordinance.

(d) After an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 has been signed by the presiding officer, the county auditor shall present it to the county executive, and record the time of the presentation. Within ten (10) days after an ordinance or resolution is presented to it, the executive shall:

(1) approve the ordinance or resolution, by signature of a majority of the executive, and send the legislative body a message announcing its approval; or

(2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing its veto and stating its reasons for the veto.

(e) This section (**other than subsection (c)(2)**) does not apply to a zoning ordinance or amendment to a zoning ordinance, or a

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1 resolution approving a comprehensive plan, that is adopted under  
2 IC 36-7.

3 (f) An ordinance increasing a building permit fee on new  
4 development must:

5 (1) be published:

6 (A) one (1) time in accordance with IC 5-3-1; and

7 (B) not later than thirty (30) days after the ordinance is  
8 adopted by the legislative body in accordance with  
9 IC 5-3-1; and

10 (2) delay the implementation of the fee increase for ninety (90)  
11 days after the date the ordinance is published under subdivision  
12 (1).

13 **(g) The notice requirements of subsection (c)(2) apply only if**  
14 **the municipal corporation received under IC 13-25-5-8.5(f) written**  
15 **notice that the department is relying on the environmental**  
16 **restrictive ordinance referred to in subsection (c)(2) as part of a**  
17 **risk based remediation proposal:**

18 **(1) approved by the department; and**

19 **(2) conducted under IC 13-22, IC 13-23, IC 13-24,**  
20 **IC 13-25-4, or IC 13-25-5.**

21 SECTION 32. IC 36-3-4-14, AS AMENDED BY P.L.78-2009,  
22 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 UPON PASSAGE]: Sec. 14. (a) An ordinance or resolution passed by  
24 a legislative body is considered adopted when it is:

25 (1) signed by the presiding officer; and

26 (2) if subject to veto, either approved by the executive or passed  
27 over the executive's veto by the legislative body, under section  
28 16 of this chapter.

29 (b) All ordinances and resolutions of a legislative body are subject  
30 to veto, except the following:

31 (1) An ordinance or resolution, or part of either, providing for  
32 the budget or appropriating money for an office or officer of the  
33 county provided for by the Constitution of Indiana or for a  
34 judicial office or officer.

35 (2) An ordinance or resolution approving or modifying the  
36 budget of a political subdivision that the legislative body is  
37 permitted by statute to review.

38 (3) A resolution making an appointment that the legislative body  
39 is authorized to make.

40 (4) A resolution selecting officers or employees of the legislative  
41 body.

42 (5) A resolution prescribing rules for the internal management

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of the legislative body.

(6) A zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(c) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) it is published under subsection (d); or

(2) there is an urgent necessity requiring its immediate effectiveness, the executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in the county.

(d) If a legislative body publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

(1) of the ordinances in the book or pamphlet;

(2) of the date of adoption of the ordinances; and

(3) that the ordinances have been properly signed, attested, recorded, and approved.

(e) Unless a legislative body provides in an ordinance or resolution for a later effective date, the ordinance or resolution takes effect when it is adopted, subject to subsections (c) and (d).

(f) Subsections (a), (c), (d), and (e) do not apply to zoning ordinances or amendments to zoning ordinances, or resolutions approving comprehensive plans, that are adopted under IC 36-7.

(g) **Subject to subsection (k)**, the legislative body shall:

(1) subject to subsection (h), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

(2) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(h) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subsection (g)(1).

(i) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subsection (g).

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(j) The failure of an environmental restrictive ordinance to comply with subsection (i) does not void the ordinance.

**(k) The notice requirements of subsection (g) apply only if the municipal corporation received under IC 13-25-5-8.5(f) written notice that the department is relying on the environmental restrictive ordinance referred to in subsection (g) as part of a risk based remediation proposal:**

**(1) approved by the department; and**

**(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or IC 13-25-5.**

SECTION 33. IC 36-4-6-14, AS AMENDED BY P.L.78-2009, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) An ordinance, order, or resolution passed by the legislative body is considered adopted when it is:

(1) signed by the presiding officer; and

(2) either approved by the city executive or passed over the executive's veto by the legislative body, under section 16 of this chapter.

If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) it is published under subsection (c); or

(2) there is an urgent necessity requiring its immediate effectiveness, the city executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in each of the districts from which members are elected to the legislative body.

(c) Except as provided in subsection (e), if a city publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

(1) of the ordinances in the book or pamphlet;

(2) of the date of adoption of the ordinances; and

(3) that the ordinances have been properly signed, attested, recorded, and approved.

(d) This section **(other than subsection (f))** does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution

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1 approving a comprehensive plan, that is adopted under IC 36-7.

2 (e) An ordinance increasing a building permit fee on new  
3 development must:

4 (1) be published:

5 (A) one (1) time in accordance with IC 5-3-1; and

6 (B) not later than thirty (30) days after the ordinance is  
7 adopted by the legislative body in accordance with  
8 IC 5-3-1; and

9 (2) delay the implementation of the fee increase for ninety (90)  
10 days after the date the ordinance is published under subdivision  
11 (1).

12 (f) **Subject to subsection (j),** the legislative body shall:

13 (1) subject to subsection (g), give written notice to the  
14 department of environmental management not later than sixty  
15 (60) days before amendment or repeal of an environmental  
16 restrictive ordinance; and

17 (2) give written notice to the department of environmental  
18 management not later than thirty (30) days after passage,  
19 amendment, or repeal of an environmental restrictive ordinance.

20 (g) Upon written request by the legislative body, the department of  
21 environmental management may waive the notice requirement of  
22 subsection (f)(1).

23 (h) An environmental restrictive ordinance passed or amended  
24 after 2009 by the legislative body must state the notice requirements of  
25 subsection (f).

26 (i) The failure of an environmental restrictive ordinance to comply  
27 with subsection (h) does not void the ordinance.

28 **(j) The notice requirements of subsection (f) apply only if the**  
29 **municipal corporation received under IC 13-25-5-8.5(f) written**  
30 **notice that the department is relying on the environmental**  
31 **restrictive ordinance referred to in subsection (f) as part of a risk**  
32 **based remediation proposal:**

33 **(1) approved by the department; and**

34 **(2) conducted under IC 13-22, IC 13-23, IC 13-24,**  
35 **IC 13-25-4, or IC 13-25-5.**

36 SECTION 34. IC 36-5-2-10, AS AMENDED BY P.L.78-2009,  
37 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 UPON PASSAGE]: Sec. 10. (a) An ordinance, order, or resolution  
39 passed by the legislative body is considered adopted when it is signed  
40 by the executive. If required by statute, an adopted ordinance, order, or  
41 resolution must be promulgated or published before it takes effect.

42 (b) An ordinance prescribing a penalty for a violation must, before

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it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

- (1) it is published under IC 36-1-5; or
- (2) it declares an emergency requiring its immediate effectiveness and is posted in:

- (A) one (1) public place in each district in the town; or

- (B) a number of public places in the town equal to the number of town legislative body members, if the town has abolished legislative body districts under section 4.1 of this chapter.

(c) This section (**other than subsection (e)**) does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(d) An ordinance increasing a building permit fee on new development must:

- (1) be published:

- (A) one (1) time in accordance with IC 5-3-1; and

- (B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

- (2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

(e) **Subject to subsection (i)**, the legislative body shall:

- (1) subject to subsection (f), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

- (2) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(f) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subsection (e)(1).

(g) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subsection (e).

(h) The failure of an environmental restrictive ordinance to comply with subsection (g) does not void the ordinance.

**(i) The notice requirements of subsection (e) apply only if the municipal corporation received under IC 13-25-5-8.5(f) written notice that the department is relying on the environmental**

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1     **restrictive ordinance referred to in subsection (e) as part of a risk**  
2     **based remediation proposal:**  
3         **(1) approved by the department; and**  
4         **(2) conducted under IC 13-22, IC 13-23, IC 13-24,**  
5         **IC 13-25-4, or IC 13-25-5.**  
6     SECTION 35. IC 5-24 IS REPEALED [EFFECTIVE UPON  
7     PASSAGE].  
8     SECTION 36. THE FOLLOWING ARE REPEALED  
9     [EFFECTIVE JULY 1, 2010]: IC 13-11-2-256; IC 13-11-2-257.  
10    SECTION 37. **An emergency is declared for this act.**

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